Pension Reform – Do Fewer Benefits Mean Fewer Cops?

In the last year, public employee retirement benefits have been the subject of many newspaper and other publication articles. Some claim public pensions are too generous; others believe eliminating retirement benefits will accelerate the downward spiral of less qualified persons entering the police profession. What is the truth? What forces are impacting this considered change in police pension benefits? Are current benefits too costly, or cheap in comparison with the alternatives? Will reducing the retirement benefits for cops result in the inability to attract qualified candidates or retain the good officers that we already have? It's not enough to think that only time will tell. Action (or inaction) now will predicate the future of policing, and also impact the safety of every community in the nation.

Background of CalPERS Defined Benefit Retirement System

For nearly 60 years, California state and local governments have offered "defined benefit" retirement plans to their employees through the California Public Employees Retirement System (CalPERS). The plan promises a retirement benefit at age fifty equal to three percent of the employee's last year's salary multiplied by his or her years of service (known as a 3 percent at fifty, or "3@50" plan). For example, a public safety worker who retires after 30 years at an $80,000 salary could earn a pension of $72,000 per year for life.

The defined benefit contributions by the employer and employee, along with investment returns, finance the system and the actual contribution varies over the years depending on how well the fund's investments have performed, how many members have died, retired, or quit, and whether the benefits were enhanced during negotiations.[1]

In the late 1990s the California legislature enacted dramatic benefit enhancements for state safety employees in the CalPERS system. This benefit was optional for participating local governments, and many adopted enhanced plans after negotiations with their respective labor unions. Councils and Boards gave a variety of reasons for agreeing to this move, many referring to the necessity to remain competitive to retain employees. When the retirement systems suffered serious investment losses in the early part of this decade, these losses, combined with the benefit enhancements, caused dramatic increases in employer contribution rates to CalPERS to fund their contracted plans.[2]

Since then, State and local agencies have been struggling to finance their retirement costs. A number of cities, counties, and their employee union groups have worked together to develop short-term cost reducing strategies that included reducing services, voluntary and involuntary furloughs, forgoing scheduled raises, having employees pay a portion of the increase and the use of recessionary funds (i.e., a City or County's savings account set aside for lean years).[3] Now, many agencies are looking for long-term strategies to further reduce their costs. They are considering tax increases as well as multi-tiered retirement systems, such as a blending of the 3@50, 2@50 and 2@55 benefit plans.

The National Perspective

We've heard a lot about corporate pensions going bankrupt, but local and state government employers are also having trouble meeting their pension obligations as well. Solutions in the government sector cannot be achieved without the help of their taxpayers and unfortunately, this problem is about to explode all over the country.

San Diego, California is on the verge of bankruptcy. Mayor Jerry Sanders said in a recent CBS interview that the City made a promise of generous retirement benefits but didn't set aside enough money to cover the bill. The City's pension plan is a staggering $1.4 billion in the red, and former pension officials have been indicted for allegedly hiding that shortfall. Mayor Sanders said that the pension plan makes up about one third of the general fund, and that there isn't enough money to adequately fund the pension plan and fulfill the City's obligation to deliver services to their constituency.[4]

San Diego may be at the eye of the hurricane, but their experience is by no means isolated. More governments are piling up pension debts leading them toward a potential pension crisis. State and local government pensions are under-funded by more than $450 billion across the nation. Twenty-eight states are less than 80 percent funded. Of those, Michigan and Massachusetts owe $15 billion respectively. Ohio owes $29.7 billion, and Illinois owes $39 billion.[5]

California Governor Arnold Schwarzenegger recently told reporters that he is trying to push a pension overhaul through the Legislature because he fears that the state will go bankrupt if they continue with their current public employee's pension system. If he can't get the legislature to change it, he promised to place an initiative on the ballot in June, 2006. Governor Schwarzenegger said that the annual state pension payment of $160 million five years ago soared to $2.6 billion this year, and he contends that it would grow exponentially if the stock market plunges.[6]

How did this happen?

For years, legislators throughout the nation said that they would defer the funding of the pension liability off into the future.[7] Ralph Martire of the Center for Tax & Budget Accountability, said that state and local government promised hefty retirement benefits to their employees to compete with the private sector. This was done to attract high quality people to public sector jobs, but the government didn't keep their end of the deal when it came to funding the plans. States have to fund these plans, because by law, they cannot scale back any benefits already offered. So guess who pays for it? Taxpayers. It's either cut services or raise taxes; because unlike the private sector, there is no system in place to bail out government pensions.[8]

Defined Contribution Plans

In an effort to end the pension crisis, California Governor Arnold Schwarzenegger pledged in his "State of the State" Address in 2004 to overhaul the pension system for all of California's public employees. That fall, a proposed constitutional and statutory initiative (ACA 5) by Assemblyman Keith Richman was filed that would close all state and local public sector defined benefit plans (including locally administered plans) to new entrants effective July 1, 2010. Employees hired after that date could only enroll in defined contribution retirement plans[1], not CalPERS defined benefit plans.

The California Police Chiefs Association Weighs In

After the introduction of ACA 5, the California Police Chiefs Association (CPCA) committed to working with the Schwarzenegger Administration and the Legislature to address legitimate problems in the CalPERS system. But they are strongly opposed to the statewide elimination of the current defined benefit plan for a defined contribution plan. CPCA fears that changing plans will have a profoundly negative impact on public safety service delivery in California for the following reasons:

- Police officers are among a small number of public employees who work 24 hours per day, 365 days per year. Their job description requires them to put themselves in harm's way as a condition of employment, and it demands great sacrifice, sometimes the ultimate sacrifice, for them and their families.
- Police officers receive relatively modest salaries compared to other private sector professionals, and do so in exchange for a tenured working environment and the promise of a stable retirement. In 2003-2004, the average monthly retirement check for cops in California was $1,591 ($19,092 per year), roughly equivalent to

[1] With a defined contribution plan, the contribution is fixed, not the pension payment. Each employee contributes a certain percentage of pay and then she or he decides how the money should be invested. There would be no defined benefit; no guaranteed percent of final average salary and the employers never incur any unfunded liabilities. How much an employee ultimately receives depends on how well their investments performed.

the national average retirement check from public and private pensions of about $1,500. This represents a stipend barely above the federal poverty line for a family of four ($18,500 in 2004)[9] in a profession with lower life expectancies than the population at large.[10] In addition, the majority of police retirees do not receive Social Security benefits because their employers are not required to pay into the national Social Security system.

- Defined contribution plans in several other states have either failed, or have experienced very low employee enrollment when offered as an option. With the market crash of 2000 and 2001, many employees who enrolled in defined contribution plans saw their retirement savings evaporate.
- Nearly all of CalPERS benefits are negotiated at the bargaining table between employees and local governments. In most cases, employees have shared in the costs of increased retirement benefits such as the 3@50 plan. Employee groups have often foregone salary increases, cost of living adjustments or other benefits in exchange for enhanced CalPERS benefits.
- Unlike many other employees, police officers have highly specialized training and skills, which do not lend themselves to easy transition into the private sector. A wholesale switch to a defined contribution plan for police officers could make California a fertile recruiting ground for police agencies from other states. Experienced cops and deputies with portable retirement benefits would very likely be lured away from our state in large numbers by the enticement of less expensive housing, lower costs of living, and the offer of a defined benefit pension plan.

- Many police officers serve their communities in field (patrol) assignments throughout their careers.[2] These assignments are physically demanding, making it difficult for most public safety employees to perform those tasks beyond their early fifties. An unintended consequence of defined contribution plans could be to put many peace officers in a situation where they could not afford to retire during down economic times. Increased ages of peace officers readily translates itself into decreased reaction times, more injuries, higher workers compensation costs, increased civil liability, and greater risk to the public as well as to fellow officers.[11]

Will A Blended Retirement System Adversely Effect Recruitment And Retention Efforts for Police Officers?

Whether it is a lesser defined benefit plan, a lower cap or a hybrid plan, many law enforcement professionals believe that creating a blended retirement system is a step backwards. Six law enforcement professionals whose agencies participated in blended retirement programs were asked that question and all of them agreed that it negatively impacted their retention efforts.[12] One agency spokesperson indicated that recruitment wasn't effected as much as retention. His agency didn't have a problem attracting police officers, but they did become a training ground for others. Once his officers attained five years of experience, they began leaving for other agencies who offered better benefits.[13] The other five spokespersons agreed with this. None of those agencies currently

[2] Due to the narrow promotional pyramid, approximately 20 to 30 percent of sworn officers ever promote to a supervisory assignment. Only 5 to 10 percent of those promote to management positions.

participate in a blended retirement plan. Those plans were negotiated away by the cities and their labor unions to increase each agency's ability to remain competitive in the job market.

What do the experts say?

In April of 2005, a group of experts convened in Healdsburg, California to discuss the recruitment and retention issues of police officers if the CalPERS retirement plan of 3@50 were to vanish.[14] This panel consisted of a city councilman, two police chiefs, an employment law attorney and a city attorney, an assistant city manager, a fire chief and a police sergeant. The panel concluded their work with some observations of possible future trends and their impact on the following subject areas:

- Competition for job candidates with other public and private organizations.
- California cities voluntarily opting out of CalPERS for a private defined contribution plan to reduce costs.
- California cities voluntarily change their retirement plan to a more affordable defined benefit plan.
- California cities require employees to pay a larger share of their retirement benefits.
- The proposed legislation passed and all agencies were forced to switch to a Defined Contribution System.
- One Super Union was formed to represent all of California's law enforcement agencies.

Some of the more noteworthy observations and recommendations of the expert panel were:

Competition for Job Candidates with Other Public and Private Organizations - The Santa Rosa Police Chief said he can't compete with other agencies even though the pay is competitive. The high cost of living in the area keeps him from attracting laterals and that many of the new recruits find it difficult to locate affordable housing. The City Attorney suggested legislative changes so all jurisdictions had the same benefits and pay, to prevent "poaching;" however, other panel members pointed out that that didn't solve the "high cost of living" issue. All panel members agreed there would be significant competition if retirement benefit reform were left up to individual agencies. If the state legislature is successful in forcing a statewide reform, there will also be significant competition during the next five years as police officers and recruits are lured into the private sector and perhaps, safer jobs. There may also be an increase in California police officers being lured away to other states who offer better benefits and a lower cost of living. The panel cited that people have a tendency to jump ship and move to other agencies that offer better packages.

California Cities Voluntarily Opting Out Of CalPERS For A Private Defined Contribution Plan To Reduce Costs

The entire panel felt that at least half of California cities would possibly opt out of the CalPERS system if staying in it were no longer affordable. With shrinking budgets and the expense of the current pension plan, most agreed this would happen within the next five to ten years. Most of the panel members saw this as having a negative impact on the recruitment and retention efforts of law enforcement. They felt candidates would "shop around" for agencies that had remained in CalPERS so that their retirement plans could transfer. This would have more of a negative impact on lateral recruitment and lateral retention.

California Cities Voluntarily Change Their Retirement Plan To A More Affordable Defined Benefit Plan - The panel believed this would happen within five years as some cities bargained with their unions to drop back to 2@50 or 2@55. The panel viewed this as a negative, mainly because all cities wouldn't participate in the switch. The cities remaining in the 3@50 plan would have a much easier time recruiting and retaining police officers. The cities with 2@50 or 55 would obviously have a more difficult time of attracting candidates because it was felt those candidates would shop around for a department with better benefits. The cities with 2@50 or 55 would have to make up the difference in pay or other benefits such as lifetime medical in order to attract officer candidates, and, upon doing so; those cities will not reduce their benefits costs.

California Cities Require Employees to Pay a Larger Share of Their Retirement Benefits - Everyone unanimously agreed this would happen within the next year. One panel member explained that many departments' Memorandum of Understanding (the "MOU," their labor agreements) already have codicils to increase employee contributions to CalPERS should rates go higher than a certain percentage. There was very little discussion about this event because the panel seemed sure of its immediate occurrence.

They felt it might create a "shopping around" atmosphere when new recruits and laterals are looking for a department for which to work.

The Proposed Legislation Passed and All Agencies Were Forced To Go To a Defined Contribution System - The panel was asked to assume that the proposed ACA 5 legislation passed. This legislation forces agencies to move into a defined contribution plan and eliminates death and disability benefits for all employees hired after July 1, 2010. The group unanimously felt this would be a negative action and would impact the recruitment and retention of police officers. The panel believed implementing a defined contribution system would result in some officers leaving the career for a safer environment since retirement benefits would be the same in the public sector as they are in the private sector.

One Super Union Was Formed To Represent All Of California's Law Enforcement Agencies- The panel thought bargaining units could consolidate into a Super Union; one that represents all police agencies similar to the Teamsters or the Fraternal Order of Police.[15] These unions represent several different bargaining units. Initially, most agreed that this could have a negative impact; however, the Santa Rosa Police Chief suggested that a statewide Super Union would give agencies an extremely strong voting block and great leverage during benefit negotiations. In addition, all agencies would have the same benefits so "shopping around" would be reduced.

Recommendations

The panel members agreed pension reform is necessary. In the 1970's and 80's, 2@50 with a cap of 75 percent was seen as a strong retirement program by its participants. Often, employees supplemented their retirement by participating in a 401K or 457K defined contribution program. These are supplemental retirement plans that are presented to employees as an option. Employees contribute to these plans to help supplement their retirement benefits.[16] With the strong market in the 1990's, along came 3@50 with a cap of 90 percent. I remember the buzz. How wonderful and unbelievable that plan was! Local government was experiencing good times so we all believed that we could afford it. Or could we? The market dropped in the early 2000's. It is slowly coming back, but for how long? Couple the unpredictable market with the fact that fewer workers have to support more retired people as they live longer and birth rates decline - and we've got a recipe for disaster![17]

Although the research showed no support for a single defined contribution plan, there was support for a blended defined benefit plan or the development of a hybrid retirement plan. A tax measure was also seen as a viable, yet unpredictable solution. Both approaches have advantages; as we will see, they both also share problems impeding their immediate adoption.

Tax Measures

One might assume localities could raise the funds necessary to sustain retirement costs and other local priorities; however, state and local government cannot rely solely on a tax measure that supports public safety. It rests with each jurisdiction's voters and whether or not they feel it is warranted. Constituents are less likely to approve a tax measure when they see government is doing nothing to explore other options to reduce their liabilities. To improve one's chances of passing a tax measure, it's important to educate the citizens on what the tax increase will actually "buy them". One of the first steps an agency must take is to educate their employees regarding the need and purpose of any proposed revenue enhancement. Those employees will be the best chance that agency has to obtaining the tax measure because they can sell it to the citizens by personalizing what the tax measure will mean to them as a police officer and to the community member as a resident or business owner.

The second step is to educate the public. The educational components should include:

If a sales tax initiative doesn't pass, the results could be.

- Potential lay offs.
- Possibility of contracting law enforcement services with another agency, thus losing local control.
- Staff reductions resulting in:
  - Quality of life programs being discontinued such as school programs, PAL, community policing initiatives, etc.
  - Response times increase thus decreasing public safety.

If the sales tax initiative passes, the results could be.

- Maintain current staff levels.
- Quality of life programs continue.
- Calls for service are answered and response times are swift.
- City maintains local control.

A tax measure may not be successful, and if it is successful, it may not be enough. So while that tax measure is being pursued, one of the following two options should be carefully considered.

A Blended Defined Benefit Plan

Most agencies currently have 3@50 with a cap of 90 percent of the highest year or the average of the employee's final three years of service. Blending of the programs simply means that an agency will discontinue offering 3@50 to its newly hired employees after a predetermined date. All current and former employees will retain the 3@50. CalPERS offers a variety of defined benefit plans; with the aging workforce, it might be beneficial to look into the 3@55 or 2@55 plans. Granted, an argument was made earlier that injuries to police officers tend to rise as they get older, and maybe a 55- year old patrol officer might be more susceptible to injury. Since we are living longer because we are healthier;[18] however, why wouldn't a 55-year old patrol officer be in better shape today than a 55-year old patrol officer 10 years ago? The panel believed that the older officer today appears to be healthier, simply because the panel's observations are that less officers are smoking, eating poorly and consuming alcohol as they did in the past.

A hybrid plan is still a variant of a "defined benefit" plan. Under this approach, employer contributions would be deposited into a defined-benefit fund with a guaranteed retirement benefit. Employee contributions would be deposited into a defined-contribution fund, which employees can invest as they please and take with them if they leave the job.[19]

Conclusion

The plan, or combination of plans, each agency decides to pursue is solely up to them and what their labor groups will negotiate. Government agencies must continue paying into the defined benefit plans that they already have; that's the law. However, if some form of pension reform is not pursued, and the economy fails resulting in cities like the City of San Diego going bankrupt, then we may lose everything. Once a city goes bankrupt, all agreements are null and void, with all aspects of an employee's pay and benefits subject to complete revision.[20] Would you rather have prevented that situation from happening when we had the chance?

Our nation is likely to be in the throes of a labor shortage for the next two decades as about 77 million baby boomers retire. Defined benefit retirement plans will help retain career police officers in California during these difficult times, even if it is a blended plan that reduces or modifies some of the current benefits. It is noteworthy that some firms in the private sector (SBC is the most recent example) have already recognized this coming challenge and are bringing back defined benefit plans as a way to establish loyalty and reward longtime employees.[21]

Whatever plan is pursued, any lesser form of a retirement benefit than what is currently available will most likely have a negative impact on law enforcement's ability to attract and retain good, quality people. Police agencies are already experiencing great difficulty in recruiting and retaining qualified employees *under their existing compensation and retirement plans.* This is due in part to the candidates' disqualification in the background process, lack of interest because the job is so dangerous and stressful, and a further lack of interest because many of the current candidate pool would rather pursue other professions that have "normal" hours and safer working environments.[22] This problem will be greatly exacerbated if the promise of a stable retirement is no longer available to

Endnotes:

[1] "Pension Debate Heats Up," PORAC Law Enforcement News, 37, No. 3, Kristie Macris, (March 2005)

[2] "Pension Reform In California", (March 1, 2005), League of California Cities, [online] accessed April 8th, 2005, available: http://www.cacities.org/resource_files/23460.ER%20Agenda%20Packet%204-05.pd

[3] Information was gleaned from interviews with a variety of Police Chiefs throughout California.

[4] CBS Evening News, January 13, 2006

[5] Wilshire Associates, 2005 report.

[6] "Governor Still Making Pitch To Overhaul Pension Plans", (June 10, 2005), San Diego Union-Tribune, [on-line] accessed January 26, 2006, available: http://www.signonsandiego.com/news/metro/pension/20050610-148-governor.html

[7] CBS Evening News, January 13, 2006

[8] CBS Evening News, January 13, 2006

[9] "Clearing the Air", CalPERS, www.calpers.ca.gov, accessed on January 14, 2006

[10] Law Enforcement Wellness Association, Inc., www.cophealth.com, accessed on January 14, 2006

[11] California Police Chiefs Association Position Statement, "Why a Defined Contribution Plan is Bad for Public Safety", www.cpcachiefs.org, (March 14, 2005)

[12] E-mail responses to "What effect will a multi-tiered retirement system have on the recruitment and retention of police officers for law enforcement agencies?", (April 5, 2005)

a. Walters, Paul, Police Chief, Santa Ana Police Department

b. Meyers, Michael A., Police Chief, Rialto Police Department

c. Jack Griggs, Chief of Police, Delano Police Department

d. Todd A Cusimano, Personnel Sergeant, Twin Cities Police Department

[13] E-mail responses to "What effect will a multi-tiered retirement system have on the recruitment and retention of police officers for law enforcement agencies?", (April 5, 2005)

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b. Meyers, Michael A., Police Chief, Rialto Police Department

c. Jack Griggs, Chief of Police, Delano Police Department

d. Todd A Cusimano, Personnel Sergeant, Twin Cities Police Department

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[14] Nominal Group Technique Panel convening on April 29, 2005 at the Mazzocco Winery Conference Room in Healdsburg. Panel members consisted of:

a. Fire Chief Randy Collins, City of Healdsburg, CA

b. Police Chief Ed Flint, City of Santa Rosa, CA

c. Mike Gogna, Law Offices of Meyers, Nave, City Attorney for the City of Healdsburg, CA

d. Barbara Jason-White, Assistant City Manager, City of Healdsburg, CA

e. Toni Lisoni, Law Offices of Antoinette Lisoni, Employment Law, Healdsburg, CA

f. Gary Plass, Council Member, City of Healdsburg, CA

g. Police Chief Jeff Weaver, City of Sebastopol, CA

h. Police Sergeant Kevin Young, City of Healdsburg, CA

[15] www.grandlodgefop.com and www.teamster.org

[16] http://www2.icmarc.org/xp/rc/

[17] "Pension Reform: What Other Countries Do", BBC News, November 24, 2005, Steve Schifferes

[18] "Pension Reform: What Other Countries Do", BBC News, November 24, 2005, Steve Schifferes

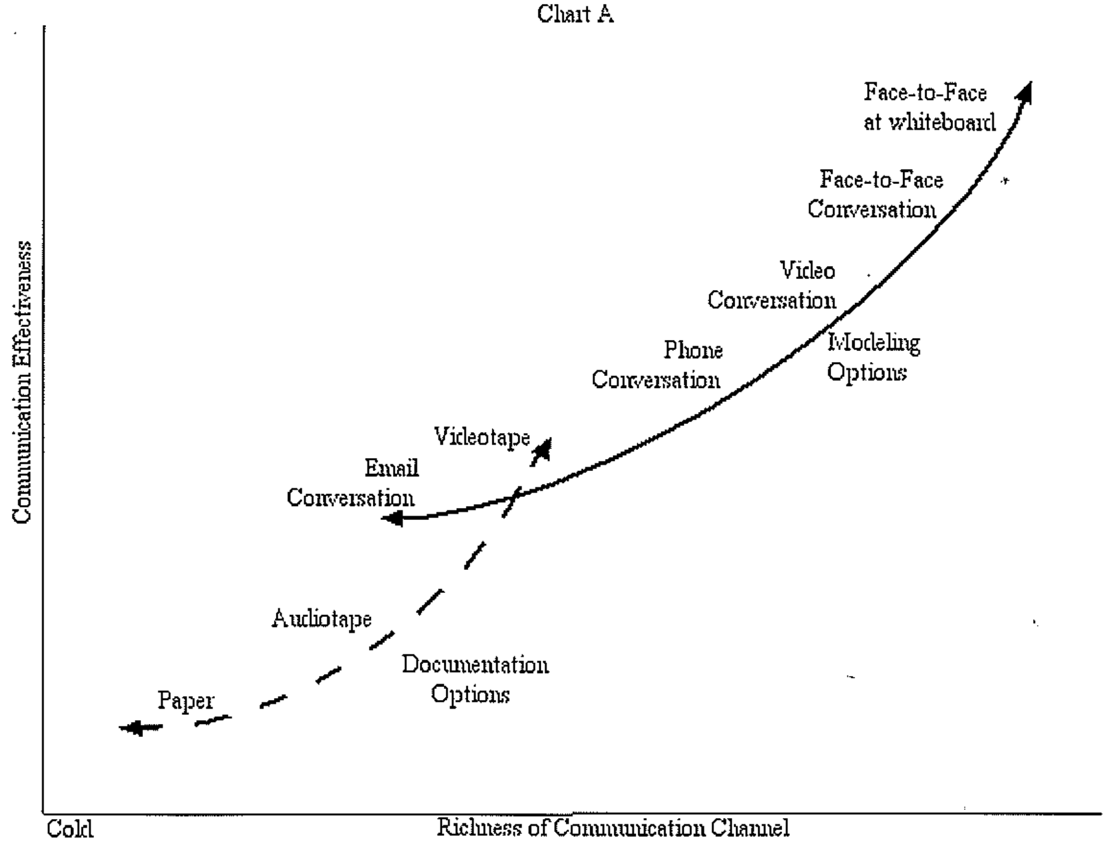
[19] "Pension Pendulum", Governing Magazine, Anya Sostek, (March 2004)

[20] "Case Study: Orange County", Erisk, www.erisk.com

[21] "Pension Debate Heats Up," PORAC Law Enforcement News, 37, No. 3, Kristie Macris, (March 2005)

[22] Multicultural Law Enforcement, Second Edition, p 76-77, Shusta, Levine, Harris, Wong

Chart A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Audiotape
Documentation
Options
Paper
Communication Effectiveness
Cold
Richness of Communication Channel